

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

JACKIE HEETER,

Plaintiff,

vs.

PORTFOLIO RECOVERY  
ASSOCIATES, LLC,

Defendant.

Case No. 18-CV-80-CVE-FHM

**OPINION AND ORDER**

Plaintiff's Motion to Compel Absent Discovery Responses, [Dkt. 14], and Defendant's Motion for Leave to File Out of Time, [Dkt. 19], are before the undersigned United States Magistrate Judge for decision. Defendant has responded to the Motion to Compel, [Dkt. 18], the time has passed for Plaintiff to file a reply brief and no reply brief has been filed.

Plaintiff served discovery requests on May 7, 2018. As of the date of filing the Motion to Compel, Defendant had not served responses; Plaintiff seeks an order requiring Defendant to serve responses. In its Response Brief filed August 6, 2018, Defendant represents that responses to the discovery requests would be produced by Friday, August 10, 2018. Plaintiff's Reply Brief was due on August 20, 2018. No reply was filed disputing that the discovery requests were produced on August 10, 2018 as represented by Defendant. Therefore, it appears that the issue is moot.

Also before the court is Defendant's Motion to File its Discovery Responses Out of Time. Defendant requests until August 10, 2018 in which to serve its discovery responses. The motion advises the pending settlement conference that prompted the Motion to Compel has been continued to September 25, 2018 and that the extension will occasion

no further delay. August 10, 2018 has passed, therefore the discovery responses should be in Plaintiff's possession.

Based on the representation that the discovery responses would be produced on Friday, August 10, 2018, and based on the expectation that the discovery responses were so produced, Plaintiff's Motion to Compel Absent Discovery Responses, [Dkt. 14], is DENIED as MOOT. Defendant's Motion for Leave to File Out of Time, [Dkt. 19], is GRANTED.<sup>1</sup> The parties will each bear their own attorney fees.

SO ORDERED this 31st day of August, 2018.

  
FRANK H. McCARTHY  
UNITED STATES MAGISTRATE JUDGE

---

<sup>1</sup> This Order does not condone the delay in responding to discovery requests. The parties are expected to adhere to the deadlines set by the Federal Rules of Civil Procedure and by the court.